

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

WHITNEY NATIONAL BANK,

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Plaintiff,

*

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v.

CASE NO.: 2:07-cv-414-MEF

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**SAFETY GUIDE OF ALABAMA, LLC
and THOMAS J. MILLS,**

*

*

Defendants.

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ANSWER

Defendant Safety Guide of Alabama, LLC (“Safety Guide”), hereby responds to the allegations of Plaintiff’s Complaint as follows:

1. Safety Guide neither admits nor denies the allegations contained in this paragraph of the Complaint as this defendant is without sufficient information to form an opinion or belief as to the truth of such allegations.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

7. Safety Guide can neither admit nor deny the allegations of this paragraph of the Complaint as Plaintiff’s allegation refers to an unidentified date.

8. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

9. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

10. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

11. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

COUNT I

12. Safety Guide realleges its answers to the preceding paragraphs of the complaint as if fully set forth herein.

13. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

14. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

15. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

16. The allegations of this paragraph do not apply to Safety Guide and therefore, they are denied.

COUNT II

17. Safety Guide realleges its answers to the preceding paragraphs of the complaint as if fully set forth herein.

18. Safety Guide denies the material allegations of this paragraph and demands strict proof thereof.

19. Admitted.

20. It is admitted that on March 12, 2007, Tom Mills was serving as the treasurer/comptroller for Safety Guide. Safety Guide denies the remaining material allegations of this paragraph and demands strict proof thereof.

21. Safety Guide neither admits nor denies the allegations contained in this paragraph of the Complaint as this defendant is without sufficient information to form an opinion or belief as to the truth of such allegations.

22. The allegations of this paragraph call for a legal conclusion to which Safety Guide is not qualified to give.

23. The allegations of this paragraph call for a legal conclusion to which Safety Guide is not qualified to give.

Affirmative Defenses

1. Safety Guide pleads the general issue and denies each and every material allegation of Plaintiff's Complaint and demands strict proof thereof.

2. The claims set forth in Plaintiff's complaint fail to state a claim upon which relief can be granted.

3. Safety Guide pleads set-off.

4. Safety Guide alleges that Plaintiff was contributorily negligent, assumed the risk or otherwise has unclean hands in that it allowed unauthorized wire transfers to occur from Safety Guide's account and further approved checks on Highway Solutions account which were written over forged signatures.

5. Any rights purportedly asserted by Plaintiff under Alabama Code § 7-3-301 or any other section of the Alabama Uniform Commercial Code are not enforceable against Safety Guide.

6. Safety Guide reserves the right to assert a counterclaim or third party claim relating to the allegations asserted in the Complaint.
7. Safety Guide raises the protections afforded it pursuant to the Chapter 11 Bankruptcy filings of Anne and/or Michael Marcato in the United States Bankruptcy Court for the Middle District of Alabama, Case No. 07-30824.

s/J. David Martin

Robert D. Segall (ASB-7354-E68R)
J. David Martin (ASB-7387-A54J)
Copeland, Franco, Screws & Gill, P.A.
444 South Perry Street (36104)
Post Office Box 347
Montgomery, Alabama 36101-0347
Telephone: (334) 834-1180
Facsimile: (334) 834-3172
Email: segall@copelandfranco.com
Email: martin@copelandfranco.com

**COUNSEL FOR DEFENDANT,
Safety Guide of Alabama, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on this the 2nd day July, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- **Dennis R. Bailey**
drb@rsjg.com, pk@rsjg.com
- **Bowdy Jerome Brown**
bjb@rsjg.com

s/J. David Martin
Of Counsel